

By: Harris

S.B. No. 1175

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of tow trucks and to the authority of a political subdivision of this state to regulate tow trucks; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 643.053, Transportation Code, is amended to read as follows:

Sec. 643.053. FILING OF APPLICATION. An application under Section 643.052 must be filed with the department and accompanied by:

(1) an application fee of \$100 plus a \$10 fee for each vehicle requiring registration other than a tow truck or a \$25 fee for each tow truck the motor carrier proposes to operate;

(2) evidence of insurance or financial responsibility as required by Section 643.103(a); and

(3) any insurance filing fee required under Section 643.103(c).

SECTION 2. Sections 643.057(a), (b), and (d), Transportation Code, are amended to read as follows:

(a) A motor carrier may not operate an additional vehicle requiring registration unless the carrier pays a registration fee of \$10 for each additional vehicle other than a tow truck or \$25 for each tow truck and shows the department evidence of insurance or financial responsibility for the vehicle in an amount at least

1 equal to the amount set by the department under Section 643.101.

2 (b) A motor carrier is not required to pay the applicable
3 ~~[\$10]~~ registration fee under Subsection (a) for a vehicle for which
4 the same fee is required and that replaces a vehicle for which the
5 fee has been paid.

6 (d) The department may not collect more than \$10 in
7 equipment registration fees for a vehicle other than a tow truck
8 registered under both this subchapter and Chapter 645 or more than
9 \$25 if the vehicle is a tow truck.

10 SECTION 3. Section 643.058(c), Transportation Code, is
11 amended to read as follows:

12 (c) A motor carrier may renew a registration under this
13 subchapter by:

14 (1) supplementing the application with any new
15 information required under Section 643.056;

16 (2) paying a \$10 fee for each vehicle requiring
17 registration other than a tow truck or a fee of \$25 for each tow
18 truck the carrier operates; and

19 (3) providing the department evidence of continuing
20 insurance or financial responsibility in an amount at least equal
21 to the amount set by the department under Section 643.101.

22 SECTION 4. Section 643.101, Transportation Code, is amended
23 by adding Subsection (d) to read as follows:

24 (d) The owner of a tow truck that is used to perform
25 nonconsent tows, as defined by Section 643.201, shall maintain
26 on-hook cargo insurance in the amount of at least \$50,000.

27 SECTION 5. Subchapter E, Chapter 643, Transportation Code,

1 is amended by adding Sections 643.203, 643.204, and 643.205 to read
2 as follows:

3 Sec. 643.203. REGULATION BY POLITICAL SUBDIVISIONS OF FEES
4 FOR NONCONSENT TOWS. (a) In this section and in Sections 643.204
5 and 643.205, "nonconsent tow" has the meaning assigned by Section
6 643.201.

7 (b) The governing body of a political subdivision may
8 regulate the fees that may be charged or collected in connection
9 with a nonconsent tow originating in the territory of the political
10 subdivision.

11 (c) In an area in which no political subdivision regulates
12 the fees that may be charged or collected for a nonconsent tow from
13 private property, a towing company may charge and collect a fee for
14 the tow of a motor vehicle from private property in an amount not to
15 exceed an amount equal to 150 percent of the fee that the towing
16 company would have been authorized to charge for a nonconsent tow
17 made at the request of a peace officer of the political subdivision
18 in which the private property is located.

19 (d) In an area in which two or more political subdivisions
20 regulate the fees for a nonconsent tow under Subsection (b), the
21 governing bodies of the political subdivisions shall enter into a
22 written understanding that, with respect to a nonconsent tow that
23 originates in that area, provides for the establishment of a single
24 schedule of the maximum fees for nonconsent tows that originate in
25 that area. If the governing bodies fail to establish the single
26 schedule of fees for nonconsent tows that originate in that area,
27 only the fee regulations of the political subdivision that

1 establish the lowest maximum fees for a nonconsent tow may be
2 enforced in the area.

3 Sec. 643.204. STORAGE OF TOWED VEHICLES. (a) A towing
4 company that makes a nonconsent tow shall tow the vehicle to a
5 vehicle storage facility that is operated by a person who holds a
6 license to operate the facility under the Vehicle Storage Facility
7 Act (Article 6687-9a, Revised Statutes).

8 (b) A storage or notification fee imposed in connection with
9 a motor vehicle towed to a vehicle storage facility is governed by
10 the Vehicle Storage Facility Act (Article 6687-9a, Revised
11 Statutes).

12 (c) Except as provided by this chapter or the Vehicle
13 Storage Facility Act (Article 6687-9a, Revised Statutes), a fee may
14 not be charged or collected without the prior written consent of the
15 vehicle owner or operator.

16 (d) Notice of each towing or storage fee that is charged or
17 collected by a vehicle storage facility must be posted at the
18 facility. The notice must be in plain view of a person seeking to
19 claim a vehicle from the facility.

20 (e) Before January 31 of each year, a towing company shall
21 file with the department a schedule showing each towing fee that the
22 towing company charges or collects in connection with a nonconsent
23 tow. A change to a fee or the amount of a fee made by a political
24 subdivision that regulates nonconsent tows shall be reported to the
25 department by the towing company before the 30th day after the
26 effective date of the change.

27 Sec. 643.205. TOWING FEE STUDIES. (a) The governing body

1 of a political subdivision that regulates nonconsent tow fees shall
2 establish procedures by which a towing company may request that a
3 towing fee study be performed.

4 (b) The governing body of the political subdivision shall
5 establish or amend the allowable fees for nonconsent tows at
6 amounts that represent the fair value of the services of a towing
7 company and are reasonably related to any financial or accounting
8 information provided to the governing body.

9 SECTION 6. The heading to Section 643.253, Transportation
10 Code, is amended to read as follows:

11 Sec. 643.253. OFFENSES AND PENALTIES [~~CRIMINAL PENALTY~~].

12 SECTION 7. Section 643.253, Transportation Code, is amended
13 by amending Subsection (c) and adding Subsections (d)-(f) to read
14 as follows:

15 (c) Except as provided by Subsection (e), an [~~An~~] offense
16 under this section is a Class C misdemeanor.

17 (d) A person commits an offense if the person:

18 (1) violates an ordinance, resolution, order, rule, or
19 regulation of a political subdivision adopted under Section 643.201
20 or 643.203, for which the political subdivision does not prescribe
21 the penalty;

22 (2) charges or collects a fee in a political
23 subdivision that regulates the operation of tow trucks under
24 Section 643.201 or 643.203 that is not authorized or is greater than
25 the authorized amount of the fee;

26 (3) violates Section 643.205; or

27 (4) violates a rule of the department applicable to a

1 tow truck or towing company.

2 (e) An offense under Subsection (d) is a misdemeanor
3 punishable by a fine of not less than \$200 or more than \$1,000.

4 (f) In addition to any criminal penalty imposed on a person
5 who commits an offense under this section, the violation may be
6 grounds for the suspension or revocation by the department of a
7 permit issued to the person under this chapter.

8 SECTION 8. Sections 685.009(c) and (e), Transportation
9 Code, are amended to read as follows:

10 (c) The issues ~~[sole issue]~~ in a hearing under this chapter
11 are ~~[is]~~ whether probable cause existed for the removal and
12 placement of the vehicle and, if the political subdivision
13 regulates the operation of tow trucks under Section 643.201 or
14 643.203, whether a towing charge imposed or collected in connection
15 with the removal or placement of the vehicle was greater than the
16 amount authorized for the tow by the political subdivision.

17 (e) The court may award:

18 (1) court costs to the prevailing party; ~~[and]~~

19 (2) the reasonable cost of photographs submitted under
20 Section 685.007(b)(8) to a vehicle owner or operator who is the
21 prevailing party; and

22 (3) an amount equal to the amount that the towing
23 charge exceeded the amount authorized under Section 643.201 or
24 643.203 by the political subdivision in which the tow originated,
25 if applicable.

26 SECTION 9. (a) This Act takes effect September 1, 2003.

27 (b) The change in law made by this Act applies only to an

1 offense committed on or after September 1, 2003.

2 (c) An offense committed before September 1, 2003, is
3 covered by the law in effect when the offense was committed, and the
4 former law is continued in effect for that purpose. For purposes of
5 this section, an offense was committed before September 1, 2003, if
6 any element of the offense was committed before that date.